IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 6890 OF 2005

Nitin Kisan Mhatre. ... Applicant.

Versus.

The State of Maharashtra. ... Respondent.

Shri Nitin Pradhan i/by Ms.S.D.Khot and Shri Raju Yamgar for the Applicant.

Shri K.V.Saste, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 19th October, 2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned A.P.P. for the State.

2. The learned Counsel appearing for the Applicant pointed out that the version of the prosecutrix cannot be believed. He pointed out that the report of the Chemical Analyser is completely against the prosecution. He invited my attention to the medical report of the prosecutrix which shows that the prosecutrix was habituated to sexual intercourse. He pointed out that incorrect statement has been made before the Sessions Court in the report submitted by the Investigating Officer regarding the contents of the report of the Chemical Analyser. He, therefore, submitted that as the entire case is doubtful, the Applicant is entitled to be enlarged on bail. The learned A.P.P. opposed the application.

3. At this stage it appears that the date of birth of the prosecutrix is 7th January 1990. There is a clear version of the prosecutrix regarding commission of offence under section 376 of the Indian Penal Code. Considering the age of the prosecutrix, her consent is irrelevant. There is sufficient evidence on record to show complicity of the Applicant. However, considering the age of the Applicant, the trial deserves to be concluded early. The Applicant is not entitled to be enlarged on bail.

4. Hence the following order is passed:

i) The Application is rejected.

ii) If the case is not committed to the Court of Sessions, the same shall be done within a period of 15 days from today.

iii) The case shall be assigned to a fast track court. The trial shall be concluded on or before 13th January 2006. If the trial is not concluded within the stipulated period, it will be open for the Applicant to make application for bail, which will be considered on its own merits.

Judge.